



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion  
Concerning the Conduct of WARREN HARDY II,  
Member of the Senate,  
State of Nevada,

Request for  
Opinion No. 08-04C

Subject.

1<sup>st</sup> AMENDED NOTICE OF HEARING  
and  
PANEL DETERMINATION

NOTICE OF HEARING

PLEASE TAKE NOTICE, in accordance with Nevada Revised Statutes (NRS) 281A and 233B and Nevada Administrative Code (NAC) 281A, that a hearing is set before the Nevada Commission on Ethics. The purpose of the hearing is to consider allegations that the Subject, Warren Hardy II (Hardy), violated the Ethics in Government law as listed below, under the Panel Determination section. Further, if during the hearing, the Commission finds a violation or violations, it will determine whether Hardy's conduct was willful and whether it will impose any penalties, pursuant to NRS 281A.480.

**THE HEARING WILL TAKE PLACE:**

**December 11, 2008 beginning at 9:00 a.m., or as soon thereafter as the  
Commission is able to hear the matter, at the following locations:**

**NEVADA LEGISLATIVE BUILDING,  
401 S. CARSON STREET, ROOM 3143,  
CARSON CITY, NEVADA 89701  
with a video-conference link to  
GRANT SAWYER STATE BUILDING,  
555 E. WASHINGTON AVENUE, ROOM 4401,  
LAS VEGAS, NEVADA 89101.**

Hardy must be present when this matter is called. If Hardy is not present when this hearing is called, the Commission may consider as true the alleged violations specified in the Panel Determination below. Please direct any hearing scheduling matters to Patricia D. Cafferata, Executive Director, Esq., at (775) 687-5469, Ext. 222.

The hearing is open under Nevada's Open Meeting Law and may be attended by the public. A verbatim record will be made by a certified court reporter. Hardy has the right to appear, be represented by legal counsel, hear evidence presented to the Commission, respond, and present evidence on his own behalf.

Hardy has the right to request that the Commission issue subpoenas on his behalf to compel witnesses to testify and/or produce evidence. In making this request, he may be required to demonstrate the relevance of the witness' testimony and/or evidence. Other rights are found in NRS 281A, NRS 233B, and NAC 281A. A finding by the Commission of a violation of NRS 281A must be supported by a preponderance of the evidence.

### **PANEL DETERMINATION**

In his private capacity, Hardy is the executive director for Associated Builders & Contractors, Inc. of Las Vegas (ABC-LV), a trade association of non-union contractors. In his public capacity, Hardy is a member of the State Senate, a public officer as defined in NRS 281A.160. Additionally, the allegations pertain to NRS 281A (Ethics in Government Law). Therefore, the Commission has jurisdiction over this matter.

An ethics complaint was filed against Hardy alleging he violated the Ethics in Government Law during the 2003, 2005 and 2007 Legislative Sessions by failing to properly disclose his private interests to ABC-LV and failing to abstain from acting on bills that were considered by the Legislature that allegedly affected him or ABC-LV.

Additionally, during the course of the Commission's investigation, information was discovered regarding issues and facts beyond those presented in the complaint that implicate NRS 281A.400.2. Hardy was properly noticed pursuant to NAC 281A.415 regarding these additional issues and facts and he responded to the additional allegations.

On April 10, 2008, pursuant to NRS 281A.440.3, a Panel consisting of Commissioners Tim Cashman and Rick Hsu reviewed the following: Ethics Complaint; Response to Complaint; Executive Director's Reports and Recommendations Regarding Just and Sufficient Cause; and evidence collected. The following is the panel's findings:

### **ALLEGATIONS DISMISSED**

#### **2003 Legislative Session Allegations:**

The Panel determined that the allegations pertaining to the 2003 Legislative Session were beyond the statute of limitations, pursuant to NRS 281A.280.2 and NRS Chapter 11.

THEREFORE, the allegations in the complaint pertaining to the 2003 Legislative Session were **DISMISSED**. The panel continued the proceeding until a later date to consider the remaining allegations.

On June 30, 2008, pursuant to NRS 281A.440.3, the Panel met again and reviewed the original documents and Executive Director's Supplemental Report and Recommendation Regarding Just and Sufficient Cause and the additional evidence collected. The following is the panel's findings:

The Panel found that **just and sufficient cause DOES NOT exist** for the Commission to hold a hearing and render an opinion on the allegations that Hardy violated the following provisions of the Ethics in Government Law:

**2005 Legislative Session Allegations:**

1. NRS 281A.400.2 by using his position in government to benefit himself and/or ABC-LV when S.B. 434 and A.B. 210 were considered by the Legislature.
2. NRS 281A.420.2 by failing to abstain from acting on S.B. 434 and A.B. 210 when the bills were considered by the Legislature.
3. NRS 281A.420.4 by failing to properly disclose his private interests to ABC-LV when S.B. 434 and A.B. 210 were considered by the Legislature.

**2007 Legislative Session Allegations:**

1. NRS 281A.400.2 by using his position in government to benefit himself and/or ABC-LV when S.B. 201, S.B. 279, A.B. 56, and A.B. 110 were considered by the Legislature.
2. NRS 281A.420.2 by failing to abstain from acting on S.B. 201, S.B. 279, A.B. 56, and A.B. 110 when the bills were considered by the Legislature.
3. NRS 281A.420.4 by failing to properly disclose his private interests to ABC-LV when S.B. 201, S.B. 279, A.B. 56, and A.B. 110 were considered by the Legislature.

THEREFORE, these allegations pertaining to the 2005 and 2007 Legislative Sessions were **DISMISSED**.

**ALLEGATIONS REFERRED TO HEARING**

**2007 Legislative Session Allegations:**

The Panel found that **just and sufficient cause DOES exist** for the Commission to hold a hearing and render an opinion on the allegations that Hardy violated:

1. NRS 281A.400.2 by using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself and/or ABC-LV during the 2007 Legislative Session. Specifically, when he considered, acted and after an amendment approved by the Assembly acted to defeat S.B. 509, a bill that related to certain lease-purchase and installment-purchase agreements and as amended by the Assembly would have clarified the types of public works projects on which prevailing wages must be paid and which would affect ABC-LV's members. Hardy chaired the Interim Study Committee (Advisory Group to Conduct Interim Study on Lease-Purchase and Installment-Purchase Agreements by a Public Entity) from which S.B. 509 resulted.
2. NRS 281A.420.2 by failing to abstain from voting on S.B. 509, a bill that related to certain lease-purchase and installment-purchase agreements and as amended by the Assembly would have clarified the types of public works projects on which prevailing wages must be paid and which would affect ABC-LV's members.
3. NRS 281A.420.4 by failing to adequately disclose his pecuniary interest and private commitment to ABC-LV on S.B. 509, a bill that related to certain lease-purchase and installment-purchase agreements and as amended by the Assembly would have clarified the types of public works projects on which prevailing wages must be paid and which would affect ABC-LV's members.

THEREFORE, these allegations from the 2007 Legislative Session are **REFERRED** for a hearing.

**2005 Legislative Session Allegations:**

Pursuant to NAC 281A.435, if one member of a panel finds that just and sufficient cause exists for the Commission to render an opinion on an ethics complaint, the matter is forwarded to the Commission for hearing. One of the panel members found that **just and sufficient cause DOES exist** for the Commission to hold a hearing and render an opinion on the allegations that Hardy violated:

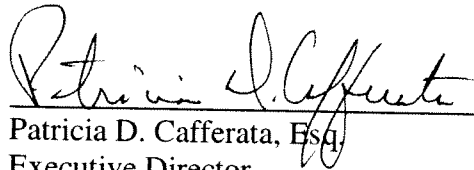
1. NRS 281A.400.2 by using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself and/or ABC-LV during the 2005 Legislative Session. Specifically, when he considered and acted on S.B. 467, a bill pertaining to public works projects and which set out to change various aspects of the bidding process and other matters relating thereto, and which would affect ABC-LV's members. Hardy, in this private capacity as executive director of ABC-LV, acted on matters during the interim period between the 2003-2005 sessions pertaining to what was ultimately introduced as S.B. 467.
2. NRS 281A.420.2 by failing to abstain from voting on S.B. 467, a bill pertaining to public works projects and which set out to change various aspects of the bidding process and other matters relating thereto, and which would affect ABC-LV's members.
3. NRS 281A.420.4 by failing to adequately disclose his pecuniary interest and private commitment to ABC-LV on S.B. 467, a bill pertaining to public works projects and which set out to change various aspects of the bidding process and other matters relating thereto.

THEREFORE, these allegations from the 2005 Legislative Session are **REFERRED** for a hearing.

The Request for Opinion is **REFERRED** to the Nevada Commission on Ethics for hearing on the above allegations pertaining to S.B. 467 in the 2005 Legislative Session and S.B. 509 in the 2007 Legislative Session.

Dated: \_\_\_\_\_

July 29, 2008

  
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Patricia D. Cafferata, Esq.  
Executive Director